IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1370 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

NAVPAD TEXTILE INDUSTRIES LTD

Versus

UNION OF INDIA

Appearance:
Ms.Falguni Joshi and
MR MIHIR H JOSHI for Petitioners
MR MUKESH R SHAH for Respondents

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of decision: 20/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Rule. Mr. M.R.Shah wavies service of rule on behalf of respondents.

This petition is directed against the order dated 5.12.2000 passed by CEGAT whereby petitioners' Appeal was rejected on the ground of delay of 45 days in filing the Appeal. The condonation of delay was sought on the ground that concerned Clerk of the Company had resigned from 7th or 8th August,2000 and it has also been noticed by the CEGAT that the date, on which the Director was out of station, was not disclosed and the advocate of the Company was also not able to say as to why the other two Directors and functionaries such as Manager, etc. could not proceed with the filing of the Appeal.

We have heard learned counsel for both the sides. We find that the matter was of heavy stake involving worth 3 crores of rupees and it has not been disputed that the Clerk had actually resigned in August 2000. Merely because at the time of the arguments, the concerned lawyer could not disclose the factual position as to why the other Directors and the functionaries could not take up the matter, that could not straightaway result into the dismissal of the Appeal on the ground of limitation. Time could have been granted to clarify the factual position.

Be that as it may, we find that in the facts and circumstances of this case, in the interest of justice the delay ought to have been condoned.

In the result the impugned order dated 5.12.2000 passed by the CEGAT, annexed with the petition as Annexure "D" at page 29 is hereby quashed and set aside. The matter is remanded back to the CEGAT for decision afresh on the merits of the Appeal. This Special Civil Application is allowed. Rule is made absolute. In the facts and circumstances of this case, no order as to costs.

(M.R.Calla,J)

(N.G.Nandi,J)